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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 817,521	03 26 2001	Richard W. Schranke	15-0228	7246

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EXAMINER

GUTIERREZ, ANTHONY

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/817,521

Applicant(s)

SCHRAMKE ET AL.

Examiner

Anthony Gutierrez

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

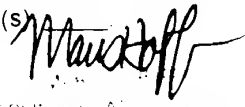
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1,2,6-13,16-23,25,26,28,29,31-33,35-37 and 40.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
SUPERVISOR, APPEALS  
TECHNOLOGY CENTER

Continuation of 5. does NOT place the application in condition for allowance because: With respect to applicants arguments regarding claim 1, applicant has incorrectly concluded that the examiner has suggested that column 5, lines 32-46 of Hassett teaches monitoring a plume dispersion.

In the previous office action, said column and lines were cited by the examiner to reject the feature of the claimed system wherein said analysis module identifies "a proposed route calculated based on risk analysis INCLUDING DATA SELECTED FROM THE GROUP CONSISTING OF (emphasis added) an optimal shipment route, an emergency condition determination, an emergency response, and as applicable a projected plume dispersion".

Although a projected plume dispersion, as applicable, is a member of the group from which the data is selected, the data, as claimed, is SELECTED from the group.

Therefore AS CLAIMED the system of invention need not ever take into consideration a projected plume dispersion so long as one of the other available options for a proposed route calculated based on risk analysis was selected.

As claimed by the applicant, this for example would be "an optimal shipment route, AN EMERGENCY CONDITION DETERMINATION (emphasis added), or an emergency response.

As cited by the examiner in the previous office action, Hassett does disclose such a system. Hassett specifically discloses a system that makes use of the examples of a regional flood warning or weather-related danger, which are examples of EMERGENCY CONDITION DETERMINATIONS. This reference can be found in the cited passage of contention, column 5, lines 32-46.

With respect to the combination of Hassett and Smith et al., in the previous office action the examiner has cited support in each reference that shows that each respective invention aims to cost-effectively enhance safety to people, including personnel, in the presence of accidental rupture and dispersion of hazardous materials or harmful chemicals being transported as cargo.

As stated in the previous office action, Hassett discloses that a method of electronically marking, identifying, and managing hazardous cargo and vehicles could decrease the risk to the general public and might cost-effectively provide information enroute that would enhance safety measures for emergency personnel called to handle an accidental rupture of a hazardous material container (col. 1, lines 55-61).

As stated in the previous office action, Smith et al. discloses that inevitably in production, transportation, storage and use of chemicals accidents occur that can endanger human, animal, and aquatic life and property (col. 1, lines 24-28). Smith et al. further discloses that some of the chemicals that endanger life are dispersed in plumes and because some chemicals generate plumes while others do not, it has become necessary for response personnel to be able to quickly identify harmful chemicals and develop a protective action zone based on various meteorological and physical conditions surrounding the site, which is especially important where the evacuation of human life might be important but also expensive (col. 1, lines 29-61).

The examiner continues to hold that motivation for combination would have been obvious to one of ordinary skill in the art at the time of invention because an individual who is skilled in the art who would recognize the cost-effective safety benefits of the marking, identifying, and management of hazardous cargo in the manner of Hassett, would also recognize the cost-effective safety benefit of developing a protective action zone based on a plume dispersion when applicable in the manner of Smith et al., particularly when there are transportation accidents that involve dangerous chemicals that generate plumes.

An example of such an individual is best exemplified in the form of emergency response personnel. Hassett discloses in column 1, lines 60-63, "Such information would also enhance safety measures for emergency personnel called to handle an accidental rupture of a hazardous material container."

Smith et al. discloses in column 1, lines it has become necessary for response personnel to be able to quickly identify harmful chemicals, particularly plume generating harmful chemicals, and quickly develop a protective action zone of these chemicals.

With respect to applicants argument that the examiner's combination is improper because "Hassett and Smith et al. fail to provide the required motivational teaching to combine plume dispersion monitoring in the event of an accident with a system that monitors the progress and movement of a hazardous material shipment as it is occurring", it is noted by the examiner that the limitation of monitoring or detecting a plume dispersion in real-time or as it is occurring is not found within the claims of the present application and is therefore not persuasive..